

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1963 of 1986

Date of decision: 24-12-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PUSPARAJ R VYAS

Versus

COLLECTOR

Appearance:

Mr. P. R. Joshi for Petitioners

Mr. H. L. Jani for Respondent No. 1

CORAM : MR. JUSTICE S. K. KESHOTE

Date of decision: 24/12/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

On 31st July, 1986 this Court made order as follows:

"Rule.

The learned advocate for the petitioner submits that petitioners would not make any further construction and that they would cover the pillars only by corrugated sheets for the purpose of parking car. For this Mr. Dave, Asst. Govt. Pleader, submitted that petitioners are required to approach the Collector for passing appropriate order. In this view of the matter, the learned advocate for the petitioners states that petitioners would file application before the Collector for regularising the aforesaid construction with a specific condition that petitioners would not make any further construction and that the petitioners would cover the said land only by corrugated sheets for parking their car and for no other purpose. Petitioners would file an application before the Collector within two weeks from today.

In view of the matter, it is directed that the order passed by the Collector and confirmed by the Special Secretary for the removal of the aforesaid two pillars is stayed."

Both the counsel for the parties are unable to say whether the aforesaid order has been complied with or not. The impugned orders of the Collector and the Special Secretary are to the extent that the petitioner was directed to remove the pillars which they had constructed on the premises. This Court has given an opportunity to the petitioner to file application before the Collector and the Collector has to consider the matter for regularization of the aforesaid construction of pillars. These pillars appear to have been constructed by the petitioners for garage. The petitioners were to give an undertaking that they would not make any further construction and that they would cover the said land only by corrugated sheets for parking cars and not for any other purpose. The application was to be decided by the Collector, and the petitioners had to give undertaking in the form directed by this Court under order dated 31st July, 1986. However, this Court will not permit either petitioner or respondent No.1 not to comply with the order of this court.

2. This writ petition stands disposed of with the

direction that the petitioners shall approach the Collector with application for regularization of the construction of pillars. However, the petitioners have to give undertaking that they would not make any further construction and that they would cover the land only by corrugated sheets for the purpose of parking car and for no other purpose. On this undertaking being given in the application, the Collector shall consider the application and pass appropriate order in accordance with law, after giving an opportunity of hearing to respondent No.3. The Collector shall decide the matter within a period of three months from the date of receipt of the application of the petitioners or from the date of receipt of certified copy of this order whichever is later. Rule made absolute in the aforesaid terms with no order as to costs.

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